

REMARKS

This responds to the Office Action mailed on May 29, 2007.

Claims 1, 20, 34 and 47 are amended. Claims 1-47 are now pending in this application.

§101 Rejection of the Claims

Claims 1-19 were rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Applicants respectfully traverse this rejection.

The Office Action rejected claims 1-19 as being directed to the manipulation of an abstract idea that has no apparent concrete result as receiving the transaction request, matching the transaction request with property profiles and providing a transaction request do not result in an actual transformation of information or the performance of an actual transaction.

It has long been established that software implementations including programs and codes embodied in a computer media are inventions that are entitled to patent protection and thus are considered patentable subject matter. (*In re Alappat*, 33 F.3d 1526 (Fed. Cir. 1994) (*en banc*)). In fact, if a claimed invention as a whole produces a useful, concrete and tangible result, then the invention is patentable. (*State Street Bank & Trust v. Signature Financial Group*, 149 F.3d 1368 (Fed. Cir. 1998)).

Applicants respectfully submit that "receiving a plurality of property profiles from a plurality of responsible parties . . . and a transaction request . . . over a network", "matching the transaction request . . ." and "providing the transaction request to a subset of the plurality of responsible parties" are concrete (e.g., substantially repeatable), tangible (e.g., the matching the transaction request with the plurality of property profiles is a real-world result) and useful (e.g., providing the transaction request to a subset of the plurality of responsible parties provides a valuable transaction matching function). See MPEP § 2106(IV)(C). Accordingly, Applicants respectfully submit that claims 1-19 fully comport with 35 U.S.C. § 101. As such, Applicants respectfully requests withdrawal of this rejection of these claims.

§103 Rejection of the Claims

Claims 1, 3-10, 12-14, 17-20, 22-25, 27-28, 31-40, 42 and 44, 45 and 47 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Fraser (U.S. Patent No. 5,664,115) in view of Tozzoli et al. (U.S. Patent No. 5,717,989).

Applicants respectfully submit that the Office Action did not make out a *prima facie* case of obviousness because even if combined, the cited references fail to teach or suggest all of the claim limitations of the independent claims of the present Application.

The Examiner asserts that “[i]n Fraser’s system, buyers can create purchase orders (or transactions requests) that are stored in Fraser’s system as an electronic document to purchase goods or services from appropriate sellers”. However, the buyer in Frasier is limited to “request[ing] more information from the seller” on a particular property listing. See Col 6 lines 51-60. The seller then determines whether to respond “based on the information provided by the prospective buyer.” See Col 7 lines 1-13. The seller can receive “a list of buyers who have requested further information regarding a property currently being listed on behalf of the seller.” See Col 8 lines 12-22. The system of Frasier therefore does not teach nor suggest the receiving of a transaction request by a requesting party. Rather, Frasier is limited to teaching submission of a request for more information by a prospective buyer.

In addition, there is no teaching or suggestion that a buyer can submit a “purchase order” as alleged by the Examiner. According to Wikipedia.org, a purchase order is a “a commercial document issued by a buyer to a seller, indicating the type, quantities and agreed prices for products or services that the seller will provide to the buyer. Sending a PO to a supplier constitutes a legal offer to buy products or services.” Frasier contains not such reference either implicitly or explicitly.

The Examiner also asserts that the transaction request may be matched “with criteria provided by the sellers”. In addition, the Examiner asserts “that that there are terms and criteria associated with the purchase order (transaction request), that is used for ‘filtering’ the purchase order against the appropriate goods and services.”

The type of criteria that may be provided by a seller in Frasier is limited to financial information associated with a prospective buyer to determine whether the prospective buyer meets “a minimum purchasing requirement[.]” of the buyer. See Col 6 lines 59-67. The criteria,

however, is used for evaluation and not filtering. “The results of this evaluation is then recorded along with other information provided by the prospective buyer and passed along directly to the seller (S110).” See Col 7 lines 1-5. The evaluation results and the prospective buyers’ information are then parsed through by the “the brokers or sellers [to] determine which buyer to respond to based on the information provided [.]” See Col 7 lines 10-13. The system in Frasier therefore does not teach the filtering of buyers as all results and buyer information is passed on to the seller regardless of whether the prospective buyer has met the criteria.

Accordingly, Fraser does not teach “receiving a transaction request from a requesting party” or “matching the transaction request with the plurality of property profiles” as claimed by the Applicants.

With respect to dependent claims 3-10, 12-14, 17-19, 22-25, 27-28, 31-33, 35-42, and 44-47, which depend on claims 1, 20, or 34, Applicants submit that a dependent claim incorporates each of the claim elements of the claim from which it depends. Applicants respectfully submit that claims 3-10, 12-14, 17-19, 22-25, 27-28, 31-33, 35-42, and 44-47, are allowable over the cited reference for at least the reasons stated above and requests the withdrawal of the §103 rejection and allowance of the claims.

Claims 14, 19, 29, 33, 42 and 46 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Fraser in view of Tozzoli et al. as applied to claim 1 and further in view of Broerman (U.S. 6,594,633).

Applicants submit that a dependent claim incorporates each of the claim elements of the independent claim it properly depends from. Applicants assert that Fraser and Tozzoli do not teach or suggest¹ all of the claim elements of claims 14, 19, 29, 33, 42 and 46 and the combination with Broerman does not cure the defect. Therefore, Applicants respectfully request withdrawal of the § 103(a) rejection and allowance of claims 14, 19, 29, 33, 42 and 46.

Claims 2, 11, 21, 26 and 39 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Fraser in view of Tozzoli et al. and in view of Broerman as applied to claim 1, and further in view of Walker et al. (U.S. 5,884,272).

¹ The references when combined must teach or suggest all the claim elements. M.P.E.P. § 2142 (citing *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed.Cir. 1991)).

Applicants submit that a dependent claim incorporates each of the claim elements of the independent claim it properly depends from. Applicants assert that Fraser and Tozzoli do not teach or suggest all of the claim elements of claims 2, 11, 21, 26 and 39 and the combination with Broerman and Walker does not cure the defect. Therefore, Applicants respectfully request withdrawal of the § 103(a) rejection and allowance of claims 2, 11, 21, 26 and 39.

Claims 15-16, 30 and 43 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Fraser in view of Tozzoli et al. and in view of Broerman, and further in view of Eggleston et al. (U.S. 6,061,660).

Applicants submit that a dependent claim incorporates each of the claim elements of the independent claim it properly depends from. Applicants assert that Fraser and Tozzoli do not teach or suggest all of the claim elements of claims 15-16, 30 and 43 and the combination with Broerman and Eggleston does not cure the defect. Therefore, Applicants respectfully request withdrawal of the § 103(a) rejection and allowance of claims 2, 11, 21, 26 and 39.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at 612-373-6900 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Reservation of Rights

In the interest of clarity and brevity, Applicant may not have addressed every assertion made in the Office Action. Applicant's silence regarding any such assertion does not constitute any admission or acquiescence. Applicant reserves all rights not exercised in connection with this response, such as the right to challenge or rebut any tacit or explicit characterization of any reference or of any of the present claims, the right to challenge or rebut any asserted factual or legal basis of any of the rejections, the right to swear behind any cited reference such as provided under 37 C.F.R. § 1.131 or otherwise, or the right to assert co-ownership of any cited reference. Applicant does not admit that any of the cited references or any other references of record are relevant to the present claims, or that they constitute prior art. To the extent that any rejection or assertion is based upon the Examiner's personal knowledge, rather than any objective evidence of record as manifested by a cited prior art reference, Applicant timely objects to such reliance on Official Notice, and reserves all rights to request that the Examiner provide a reference or affidavit in support of such assertion, as required by MPEP § 2144.03. Applicant reserves all rights to pursue any cancelled claims in a subsequent patent application claiming the benefit of priority of the present patent application, and to request rejoinder of any withdrawn claim, as required by MPEP § 821.04.

Respectfully submitted,

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By their Representatives,

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Date October 29, 2007

By / Randy L. Canis /

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 29 day of October 2007.

Name Pete J. Buffoni

Signature Pete J. Buffoni